

Virginia Department of Labor and Industry Labor & Employment Law Division

INSTRUCTIONS FOR COMPLETING "CLAIM FOR WAGES" FORM ***PLEASE READ AND FOLLOW THE INSTRUCTIONS TO AVOID** **PROCESSING DELAYS OF YOUR CLAIM**

The attached claim for unpaid wages form must be completed, printed, signed and returned by mail in order for your claim to be investigated. Please complete all areas. If necessary, use a separate sheet of paper to provide additional information or explanation. Send the **original claim form** and include copies of all documents which will support your claim. You must be able to prove that you are owed wages or had wages wrongfully deducted. Incomplete forms **will be returned**, causing a delay in processing your claim. If you have not requested payment of your wages from your employer, you **must** do so before filing a claim. Only after you have been denied your wages should you file a claim with this office. **NOTE: You must file your written request with this agency within two (2) years of being denied wages if the wages were earned BEFORE July 01, 2020. If the wages were earned AFTER July 01, 2020, you have three (3) years to file a claim.**

EMPLOYEES PAID BY THE HOUR:

If you are claiming wages based on an hourly wage, include the dates, hours, and location(s) where the work was performed for which you were not paid. Be sure to include the **total amount of wages** you are claiming. Please provide documentation of employment and your established rate of pay, such as a paycheck stub; otherwise, our enforcement may be limited. The State Minimum Wage is \$9.50 per hour. If you are a covered employee, your hourly rate must be at least the state minimum. You can claim pay **for time actually worked only. Holiday, vacation, sick, severance, and expense reimbursements** are not collectable under the Virginia Payment of Wage Act.

EMPLOYEES PAID BY SALARY:

If you are claiming wages based on a salary rate, include the maximum number of hours and days you were required to or normally worked to receive the salary. Please provide documentation, such as a paycheck stub to verify that the salary or the deductions from salary you are claiming is accurate. Provide dates and hours worked for which you were not paid and include the total amount of wages you are claiming. Note: Virginia's Payment of Wage Act requires **pay for time actually worked ONLY**. You cannot recover pay for time not actually worked.

EMPLOYEES PAID BY COMMISSION:

State the total amount of commissions you claim are due and indicate how you arrived at the dollar amount of your claim. Please provide a copy of your commission agreement with your employer. Indicate what you had to do to earn the commission and under what circumstances the commission would become due and payable if no written commission document exists. Account for any and all "draws" you may have received. Identify each specific account for which you seek payment of a commission and state the dollar amount of the commission you claim for each account. Provide documentation such as a paycheck stub or commission report to verify employment and the commission rate you are claiming is accurate.

ACCEPTANCE OF THIS CLAIM DOES NOT GUARANTEE COLLECTION OF WAGES:

Upon acceptance of your claim by the Virginia Department of Labor and Industry, **do not assume that your claim is valid and collectible**. In cases where the employer disputes your charges, you will be requested to provide documentary evidence of the amount and validity of your claim. Also, you must

provide the company's complete name and mailing address along with the owner's or company representative's full name and address.

Since wage claims are handled by individual compliance officers, we do not provide periodic progress reports. Requests for progress reports only hinder the prompt resolution of your claim. It is imperative to provide your current and accurate contact information. You will be contacted when your claim has been assigned to a compliance officer for investigation. Your prompt response to the compliance officer is requested. Failing to respond will delay the investigation of your claim. When additional information is needed or a determination is made on your claim, you will be notified.

Please notify this office immediately in *writing* of any change in your address, telephone number, or if you receive payment from your employer. You may contact via U.S. Postal mail to the address below or by email to laborlaw@doli.virginia.gov .

ADDITIONAL INFORMATION:

For wages earned AFTER July 01, 2020:

In addition to any civil or criminal penalties allowed by law, and without regard to any exhaustion of alternative administrative remedies, if an employer fails to pay wages to an employee, you may sue the employer to recover the wages owed. The court shall award the wages owed, an additional equal amount as liquidated damages, plus prejudgment interest (eight percent accruing from the date the wages were due) and reasonable attorney fees if the court finds in your favor. If the court finds the employer knowingly failed to pay wages to an employee the court shall award the employee an amount equal to triple the amount of wages due and reasonable attorney fees.

Mailing Instructions for submitting a Claim for Unpaid Wages:

U.S. Postal mail *only* - Faxed forms cannot be accepted

Please print and submit your completed claim form to the following address by U.S. Mail:

**Virginia Department of Labor and Industry
Division of Labor and Employment Law
600 East Main Street, Ste. 207
Richmond, Virginia 23219.**

***Remember to sign the claim form and make sure to include the employer's full address as well the total amount of wages claimed. Please include your email address for notices about your claim.



**VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
STATEMENT OF CLAIM FOR UNPAID WAGES**

(Please type or print clearly. We may be unable to assist you if your answers are incomplete or illegible.)

YOUR FULL NAME: _____

YOUR STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK PHONE: _____

E-MAIL ADDRESS: _____ BIRTH DATE: _____

WHAT WAS YOUR JOB TITLE? _____

HIRE DATE: _____ TERMINATION DATE: _____ LAST DATE ACTUALLY WORKED: _____

SUPERVISOR'S NAME: _____

HAVE YOU DEMANDED PAYMENT OF THE WAGES YOU CLAIM? YES NO

IF SO, ON WHAT DATE DID YOU ASK FOR YOUR WAGES? _____

NAME OF PERSON WHO REFUSED TO PAY YOU: _____

REASON GIVEN: _____

BUSINESS NAME: _____

TYPE OF BUSINESS: _____

APPROXIMATE NUMBER OF EMPLOYEES: _____

BUSINESS STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

BUSINESS PHONE: _____ EMPLOYER'S HOME/CELL PHONE: _____

BUSINESS MAILING ADDRESS, IF DIFFERENT FROM STREET ADDRESS: _____

DID THEY CONDUCT BUSINESS UNDER ANY OTHER NAME(S)? YES NO IDENTIFY: _____

COMPANY PRESIDENT OR OWNER NAME: _____ TITLE: _____

PRESIDENT OR OWNER'S HOME ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

IDENTIFY THE PLACE WHERE YOU PERFORMED WORK FOR THIS BUSINESS.

STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

1. YES NO IS THE BUSINESS CLOSED OR IN BANKRUPTCY?
2. YES NO DID YOU HAVE A WRITTEN EMPLOYMENT AGREEMENT? (*Attach a photocopy of any agreement you may have.*)
3. YES NO WERE YOU HIRED TO WORK AS A SUBCONTRACTOR OR AN INDEPENDENT AGENT?
4. YES NO DID YOU WORK FOR THIS BUSINESS AS A SELF-EMPLOYED PERSON?
5. YES NO WERE YOU A CORPORATE DIRECTOR, OWNER OR PARTNER IN THE BUSINESS?
6. YES NO DID YOU FILE A COURT CASE FOR UNPAID WAGES?
If so, state the name of the court. _____
7. YES NO HAVE YOU HIRED A LAWYER?
8. YES NO EXCEPT FOR TAXES, WERE MONIES SUBTRACTED FROM YOUR WAGES WITHOUT YOUR WRITTEN CONSENT?
If so, how much money was deducted? \$ _____
What was the purpose of the deduction? _____
9. YES NO DID THE BUSINESS GIVE YOU A BAD PAYROLL CHECK? (*Attach copies of all payroll checks you were given.*)
10. CHECK WHAT APPLIES TO YOU: SALARIED HOURLY COMMISSIONS
DAILY RATE PAID BY THE JOB OR PIECE
11. WHAT WAS YOUR RATE OF PAY? \$ _____ PER _____
(Hour, Month, Year, Piece, Etc.)
12. HOW OFTEN WERE YOU PAID? _____ LAST DATE YOU WERE PAID? _____
13. FOR WHAT TIME PERIOD WERE YOU NOT PAID YOUR WAGES? _____ THRU _____
(Month – Day – Year) (Month – Day – Year)
14. WHAT IS THE TOTAL GROSS AMOUNT OF UNPAID WAGES YOU CLAIM? \$ _____
(“Gross” amount means before taxes have been subtracted from your wages.) Note: Sick Leave, Paid Holidays, Vacation Leave, Severance Benefits, Per Diem and Expense Reimbursements are NOT “wages” within the meaning of the wage statute. DO NO INCLUDE THESE ITEMS IN THE DOLLAR AMOUNT OF YOUR CLAIM.
15. WAS THE WORK PART OF A STATE OF VIRGINIA PUBLIC WORKS PROJECT? YES NO
16. ARE YOU CLAIMING YOU WERE PAID LESS THAN THE VIRGINIA MINIMUM WAGE? YES NO

USE THIS SPACE TO SHOW US HOW YOU ARRIVED AT THE DOLLAR AMOUNT OF YOUR WAGE CLAIM. ATTACH COPIES OF PAYROLL CHECK STUBS, “BAD CHECKS”, FEDERAL W-2 OR 1099 FORMS, EMPLOYMENT AGREEMENTS AND ANY OTHER SUPPORTING DOCUMENTS YOU MAY HAVE.

I swear and certify that the information I have provided to the Department of Labor and Industry is true and accurate, and I hereby authorize the Virginia Department of Labor and Industry to release any and all information contained in my complaint file, to investigate my charges and to take any action it deems necessary to enforce the provisions of Section 40.1-29, Code of Virginia. I further authorize a photocopy of this complaint form, together with my supporting documents, to be released to the business I have named in this complaint. I understand that if I knowingly make a false statement on this complaint form, or if I knowingly make a false statement to any state member of the Department of Labor and Industry, I could be subject to a fine of up to \$10,000 or imprisonment for up to 6 months or both.

(Signature of Claimant – Please sign in ink.) DATE: _____